

AMENDMENTS TO LB 489

(Amendments to E & R amendments, AM7212)

Introduced by Wehrbein, 2

1           1. Strike sections 2, 3, and 5 and insert the following  
2 sections:

3           Sec. 2. Section 48-418, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           ~~48-418~~ (1) Sections 2 to 14 of this act shall be known  
6 and may be cited as the Elevator Safety Act.

7           (2) The Commissioner of Labor shall, on or before the  
8 first day of July 1965, State Fire Marshal shall appoint a state  
9 elevator inspector, subject to the approval of the Governor,  
10 who shall work under the direct supervision of the ~~commissioner~~  
11 State Fire Marshal. The person so appointed shall be qualified  
12 by not less than five years' journeyman experience in elevator  
13 installation, maintenance, and inspection as determined by the  
14 ~~Commissioner of Labor~~ State Fire Marshal and shall be familiar  
15 with the inspection process provided by the Nebraska Elevator Code  
16 provided under section ~~48-418.12~~ 12 of this act. The ~~commissioner~~  
17 Sate Fire Marshal, subject to the approval of the Governor, may  
18 appoint deputy inspectors possessing the same qualifications as the  
19 state elevator inspector. A qualified individual may apply for the  
20 position of deputy inspector and such application shall include the  
21 applicant's social security number.

22           Sec. 3. Section 48-418.02, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~48-418.02~~ The ~~Commissioner of Labor~~ State Fire Marshal  
3 and the state elevator inspector shall have the right and power to  
4 enter any building or structure, public or private, for the purpose  
5 of inspecting any equipment covered by ~~sections 48-418 to 48-418.12~~  
6 the Elevator Safety Act or gathering information with reference  
7 thereto.

8 Sec. 4. Section 48-418.03, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 ~~48-418.03~~ Upon making an inspection of any equipment  
11 covered by ~~sections 48-418 to 48-418.12~~ the Elevator Safety Act  
12 and receipt of the inspection fee, the inspector shall give to  
13 the owner or user thereof a certificate of inspection, upon forms  
14 prescribed by the ~~Commissioner of Labor~~ State Fire Marshal. The  
15 certificate shall be posted in the elevator car.

16 Sec. 5. Section 48-418.04, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 ~~48-418.04~~ The ~~provisions of sections 48-418 to 48-418.12~~  
19 Elevator Safety Act shall not apply to (1) elevators under the  
20 jurisdiction and subject to inspection by the United States  
21 Government, (2) elevators used exclusively for agricultural  
22 purposes, and (3) elevators in private residences.

23 Sec. 6. Section 48-418.05, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 ~~48-418.05~~ The state elevator inspector shall investigate  
26 and report to the ~~commissioner~~ State Fire Marshal the cause of any  
27 elevator accident that may occur in the state, the loss of life,

1 the injuries sustained, and such other data as may be of benefit in  
2 preventing other similar accidents.

3 Sec. 7. Section 48-418.06, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 ~~48-418.06~~ The state elevator inspector shall maintain a  
6 complete and accurate record of the name of the owner or user of  
7 each elevator and equipment subject to ~~sections 48-418 to 48-418.12~~  
8 the Elevator Safety Act and a full description of the equipment and  
9 the date when last inspected.

10 Sec. 8. Section 48-418.07, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 ~~48-418.07~~ The inspections required by ~~sections 48-418 to~~  
13 ~~48-418.12~~ the Elevator Safety Act shall not be made when any owner  
14 or user of any equipment obtains an inspection by a representative  
15 of a reputable insurance company licensed to do business in  
16 Nebraska, obtains a policy of insurance from such company upon  
17 the equipment, and files with the ~~Commissioner of Labor~~ State Fire  
18 Marshal a certificate of inspection by such insurance company and  
19 a statement that such equipment is insured, and no fee shall be  
20 required. No inspection shall be required under ~~sections 48-418 to~~  
21 ~~48-418.12~~ the act when there has been an annual inspection under a  
22 city ordinance, which ordinance meets the standards of the Nebraska  
23 Elevator Code adopted pursuant to section 12 of this act.

24 Sec. 9. Section 48-418.09, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 ~~48-418.09~~ (1) The ~~Commissioner of Labor~~ State Fire  
27 Marshal may charge a reasonable fee for each elevator inspection.

1   The ~~commissioner~~ State Fire Marshal shall establish the fees at  
2   a level necessary to meet the costs of the elevator inspection  
3   program as approved by the Legislature and to provide a sufficient  
4   balance in the Elevator Inspection Fund.

5           (2)   An annual inspection fee of not more than  
6   ~~seventy-five~~ one hundred fifty dollars per unit up to five floors  
7   plus five dollars for each floor over five shall be paid for each  
8   elevator inspected. For new installations, a preliminary inspection  
9   fee of not more than ~~seventy-five~~ dollars shall be paid, and for  
10   an initial inspection, a fee of not more than ~~seventy-five~~ dollars  
11   shall be paid one hundred fifty dollars per unit up to five floors  
12   plus an additional five dollars for each floor over five shall be  
13   paid for each elevator inspected. For an initial inspection, a fee  
14   of not more than two hundred dollars per unit up to five floors  
15   plus five dollars for each floor over five. If an elevator does  
16   not pass an initial inspection and a reinspection is required,  
17   an additional initial inspection fee shall be charged for each  
18   additional reinspection of such elevator. Such fees shall be paid  
19   by the owner or user for each elevator inspected by the state  
20   elevator inspector before the inspection certificate is issued.

21           (3)   For the class of elevators which includes escalators,  
22   moving sidewalks, conveyors, and dumbwaiters, the preliminary  
23   inspection fee shall be not more than one hundred fifty dollars  
24   per unit up to five floors plus an additional five dollars each  
25   floor over five. The ~~7~~ the initial inspection fee shall be not  
26   more than one hundred fifty dollars per unit up to five floors  
27   plus an additional five dollars per floor for each floor over

1 five. The ~~7~~ and the annual inspection fee shall be not more than  
2 one hundred fifty dollars per unit for up to five floors with an  
3 additional charge of five dollars per floor for each floor over  
4 five. If such escalator, moving sidewalk, conveyor, or dumbwaiter  
5 does not pass an initial inspection and a reinspection is required,  
6 an additional initial inspection fee shall be charged for each  
7 additional reinspection of such elevator. Such fees shall be paid  
8 by the owner or user for each escalator, moving sidewalk, conveyor,  
9 or dumbwaiter inspected by the state elevator inspector before the  
10 inspection certificate is issued.

11 (4) If at any time the owner or user desires a special  
12 inspection of an elevator, it shall be made by the elevator  
13 inspector after due request therefor and the inspector making  
14 the inspection shall collect his or her expenses in connection  
15 therewith and a fee of not more than ~~seventy-five~~ two hundred  
16 dollars for each elevator inspected with an additional charge of  
17 five dollars per floor for each floor over five.

18 Sec. 10. Section 48-418.10, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 ~~48-418.10~~ The Elevator Inspection Fund is hereby created.  
21 ~~The Commissioner of Labor~~ State Fire Marshal shall use the fund  
22 for the administration of the elevator inspection program pursuant  
23 to ~~sections 48-418 to 48-418.14~~ the Elevator Safety Act. The fund  
24 shall consist of money appropriated to it by the Legislature and  
25 fees collected in the administration of the elevator inspection  
26 program.

27 Fees so collected shall be remitted to the State

1 Treasurer for credit to the fund and shall not lapse into the  
2 General Fund. Any money in the Elevator Inspection Fund available  
3 for investment shall be invested by the state investment officer  
4 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
5 State Funds Investment Act.

6 Sec. 11. Section 48-418.11, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 ~~48-418.11~~ Any person, persons, corporations, and the  
9 directors, managers, superintendents, and officers of such  
10 corporations violating any of the provisions of ~~sections 48-418 to~~  
11 ~~48-418.12~~ the Elevator Safety Act, shall be guilty of a Class V  
12 misdemeanor. Each violation shall be a separate offense.

13 Sec. 12. Section 48-418.12, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 ~~48-418.12~~ The Commissioner of Labor State Fire Marshal  
16 shall adopt and promulgate rules and regulations to establish  
17 safety requirements for elevators used in this state. A safety  
18 code may be adopted as a rule and regulation by the ~~commissioner~~  
19 State Fire Marshal and shall thereafter be known as the Nebraska  
20 Elevator Code. The rules and regulations may conform generally to  
21 the standards found in the American National Safety Code A 17.1  
22 A17.1 as published by the American Society of Mechanical Engineers.  
23 A copy of this code, if so adopted, shall be kept on file in the  
24 office of the ~~commissioner~~ State Fire Marshal.

25 Sec. 13. (1) All employees, budget requirements,  
26 furniture, equipment, books, files, and records utilized by the  
27 Department of Labor for the administration of sections 48-418 to

1 48-418.14 shall be transferred and delivered to the State Fire  
2 Marshal on the operative date of this section. The transferred  
3 employees shall not lose any accrued benefits or status due  
4 to the transfer and shall receive the same benefits as other  
5 state employees, including participation in the State Employees  
6 Retirement Act.

7 (2) All contracts entered into by the Department of Labor  
8 pursuant to sections 48-418 to 48-418.14 shall be recognized by the  
9 State Fire Marshal, and the State Fire Marshal shall succeed to all  
10 rights and obligations under such contracts. Any funds from prior  
11 fiscal years available to satisfy obligations incurred under such  
12 contracts shall be transferred and appropriated to the State Fire  
13 Marshal for payment of such obligations.

14 (3) All rules, regulations, and orders of the Department  
15 of Labor adopted prior to the operative date of this section in  
16 connection with sections 48-418 to 48-418.14 shall continue to be  
17 effective until revised, amended, repealed, or nullified pursuant  
18 to law.

19 (4) No suit, action, or other proceeding, judicial or  
20 administrative, lawfully commenced prior to the operative date of  
21 this section or which could have been commenced prior to such date,  
22 by or against the Department of Labor pursuant to sections 48-418  
23 to 48-418.14 shall abate by reason of the transfer of duties and  
24 functions from the Department of Labor to the State Fire Marshal.

25 (5) All licenses, certificates, registrations, permits,  
26 seals, or other forms of approval issued by the Department of Labor  
27 prior to the operative date of this section pursuant to sections

1 48-418 to 48-418.14 shall remain valid as issued unless revoked or  
2 their effectiveness is otherwise terminated as provided by law. On  
3 and after the operative date of this section, all documents and  
4 records transferred, or copies of the same, may be authenticated or  
5 certified by the State Fire Marshal for all legal purposes.

6           Sec. 14. Section 48-418.14, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           ~~48-418.14~~ For purposes of ~~sections 48-418 to 48-418.12~~  
9 the Elevator Safety Act, unless the context otherwise requires,  
10 elevator shall include (1) any hoisting or lowering mechanism  
11 equipped with a car or platform which moves in guides in a  
12 substantially vertical direction and which serves two or more  
13 floors of a building or structure, (2) an escalator, (3) a  
14 power-driven incline, (4) a continuous stairway used for raising or  
15 lowering passengers, (5) moving sidewalks, (6) dumbwaiters, and (7)  
16 tray conveyors.

17           Sec. 15. Section 48-719, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           48-719 Sections 48-719 to 48-743 and section 33 of this  
20 act shall be known and may be cited as the Boiler Inspection Act.

21           Sec. 16. Section 48-720, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           48-720 As used in the Boiler Inspection Act, unless the  
24 context otherwise requires:

25           (1) Board means the Boiler Safety Code Advisory Board;  
26 and

27           (2) Boiler means a closed vessel in which water or other



1 liquid is heated, steam or vapor is generated, steam or vapor is  
2 superheated, or any combination thereof, under pressure or vacuum,  
3 for internal or external use to itself, by the direct application  
4 of heat and an unfired pressure vessel in which the pressure is  
5 obtained from an external source or by the application of heat  
6 from an indirect or direct source. Boiler includes a fired unit for  
7 heating or vaporizing liquids other than water only when such unit  
8 is separate from processing systems and complete within itself. ~~+~~  
9 and

10 ~~(3) Commissioner means the Commissioner of Labor.~~

11 Sec. 17. Section 48-721, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 48-721 The ~~commissioner~~ State Fire Marshal shall appoint  
14 a state boiler inspector who shall work under the direct  
15 supervision of the ~~commissioner~~ State Fire Marshal or his or  
16 her designee and devote his or her full time to the duties of  
17 the office. The person so appointed shall (1) be a practical  
18 boilermaker, technical engineer, operating engineer, or boiler  
19 inspector and hold a commission from the National Board of Boiler  
20 and Pressure Vessel Inspectors with an "A" endorsement. The  
21 state boiler inspector shall also either hold a "B" endorsement  
22 to his or her commission or acquire a "B" endorsement within  
23 eighteen months of appointment, (2) be qualified by not less  
24 than ten years' experience in the construction, installation,  
25 repair, inspection, or operation of boilers, steam generators, and  
26 superheaters, (3) have a knowledge of their operation and use for  
27 the generating of steam for power, heating, or other purposes,

1 and (4) neither directly nor indirectly be interested in the  
2 manufacture, ownership, or agency of the same. The ~~commissioner~~  
3 State Fire Marshal may appoint deputy inspectors as necessary to  
4 carry out the Boiler Inspection Act. Deputy inspectors shall hold  
5 a commission from the National Board of Boiler and Pressure Vessel  
6 Inspectors or acquire the same within twelve months of appointment.  
7 Such deputy inspectors shall otherwise be subject to and governed  
8 by the same rules and regulations applicable to and governing the  
9 acts and conduct of the state boiler inspector. Before entering  
10 upon his or her duties under the Boiler Inspection Act, the state  
11 boiler inspector and each deputy inspector shall be bonded or  
12 insured as required by section 11-201.

13           Sec. 18. Section 48-722, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           48-722 (1) Except as provided in subsection (2) of this  
16 section, the state boiler inspector shall inspect or cause to be  
17 inspected at least once every twelve months all boilers required  
18 to be inspected by the Boiler Inspection Act to determine whether  
19 the boilers are in a safe and satisfactory condition and properly  
20 constructed and maintained for the purpose for which the boiler is  
21 used, except that (a) hobby boilers, steam farm traction engines,  
22 portable and stationary show engines, and portable and stationary  
23 show boilers, which are not otherwise exempted from the act  
24 pursuant to section 48-726, shall be subject to inspection at least  
25 once every twenty-four months and (b) the ~~commissioner~~ State Fire  
26 Marshal may, by rule and regulation, establish inspection periods  
27 for pressure vessels of more than twelve months, but not to exceed

1 the inspection period recommended in the National Board Inspection  
2 Code or the American Petroleum Institute Pressure Vessel Inspection  
3 Code API-510 for pressure vessels being used for similar purposes.  
4 No boilers required to be inspected by the act shall be operated  
5 without valid and current certification pursuant to rules and  
6 regulations adopted and promulgated by the ~~commissioner~~ State Fire  
7 Marshal in accordance with the requirements of the Administrative  
8 Procedure Act. The owner of any boiler installed after September  
9 2, 1973, shall file a manufacturer's data report covering the  
10 construction of such boiler with the state boiler inspector. Such  
11 reports shall be used to assist the state boiler inspector in the  
12 certification of boilers. No boiler required to be inspected by  
13 the Boiler Inspection Act shall be operated at any type of public  
14 gathering or show without first being inspected and certified as  
15 to its safety by the state boiler inspector. Antique engines with  
16 boilers may be brought into the state from other states without  
17 inspection, but inspection as provided in this section shall be  
18 made and the boiler certified as safe before being operated.

19 (2) The ~~commissioner~~ State Fire Marshal may, by rule  
20 and regulation, waive the inspection of unfired pressure vessels  
21 registered with the State of Nebraska if the ~~commissioner~~ State  
22 Fire Marshal finds that the owner or user of the unfired pressure  
23 vessel follows a safety inspection and repair program that is based  
24 upon nationally recognized standards.

25 Sec. 19. Section 48-723, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 48-723 The ~~commissioner~~ State Fire Marshal and the boiler

1 inspectors shall have the right and power to enter any building  
2 or structure, public or private, for the purpose of inspecting any  
3 boilers required to be inspected by the Boiler Inspection Act or  
4 gathering information relating to such boilers.

5 Sec. 20. Section 48-724, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 48-724 (1) Upon making an inspection of any boilers  
8 required to be inspected by the Boiler Inspection Act and upon  
9 receipt of the inspection fee and certificate fee or registration  
10 fee, the boiler inspector shall give to the owner or user of the  
11 boilers a certificate of inspection or certificate of registration  
12 upon forms prescribed by the ~~commissioner~~ State Fire Marshal. The  
13 certificate shall be posted in a place near the location of such  
14 boiler.

15 (2) The ~~commissioner~~ State Fire Marshal shall establish  
16 the amount of the inspection fee, certificate fee, and registration  
17 fee by rule or regulation at the level necessary to meet the costs  
18 of administering the act.

19 Sec. 21. Section 48-726, Revised Statutes Supplement,  
20 2005, is amended to read:

21 48-726 The Boiler Inspection Act shall not apply to:

22 (1) Boilers of railway locomotives subject to federal  
23 inspection;

24 (2) Boilers operated and regularly inspected by railway  
25 companies operating in interstate commerce;

26 (3) Boilers under the jurisdiction and subject to regular  
27 periodic inspection by the United States Government;

1                   (4) Boilers used exclusively for agricultural purposes;

2                   (5) Steam heating boilers in single-family residences and  
3 apartment houses with four or less units using a pressure of less  
4 than fifteen pounds per square inch and having a safety valve set  
5 at not higher than fifteen pounds pressure per square inch;

6                   (6) Heating boilers using water in single-family  
7 residences and apartment houses with four or less units using a  
8 pressure of less than thirty pounds per square inch and having a  
9 safety valve set at not higher than thirty pounds pressure per  
10 square inch;

11                  (7) Fire engine boilers brought into the state for  
12 temporary use in times of emergency;

13                  (8) Boilers of a miniature model locomotive or boat or  
14 tractor or stationary engine constructed and maintained as a hobby  
15 and not for commercial use and having a diameter of less than ten  
16 inches inside diameter and a grate area not in excess of one and  
17 one-half square feet and that are properly equipped with a safety  
18 valve;

19                  (9) Hot water supply boilers if none of the following  
20 limitations is exceeded: (a) Two hundred thousand British thermal  
21 units of input; (b) one hundred twenty gallons of nominal capacity;  
22 or (c) two hundred ten degrees Fahrenheit output;

23                  (10) Unfired pressure vessels not exceeding (a) five  
24 cubic feet in volume or (b) a pressure of two hundred fifty pounds  
25 per square inch;

26                  (11) Unfired pressure vessels owned and maintained by a  
27 district or corporation organized under the provisions of Chapter

1 70, article 6; and

2 (12) Unfired pressure vessels (a) not exceeding a maximum  
3 allowable working pressure of five hundred pounds per square  
4 inch, (b) that contain carbon dioxide, helium, oxygen, nitrogen,  
5 argon, hydrofluorocarbon refrigerant, or any other nonflammable gas  
6 determined by the ~~commissioner~~ State Fire Marshal not to be a risk  
7 to the public, (c) that are manufactured and repaired in accordance  
8 with applicable American Society of Mechanical Engineers standards,  
9 and (d) that are installed in accordance with the manufacturer's  
10 specifications.

11 Sec. 22. Section 48-727, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 48-727 The ~~commissioner~~ State Fire Marshal may adopt and  
14 promulgate rules and regulations for the purpose of effectuating  
15 the Boiler Inspection Act, including rules and regulations for the  
16 methods of testing equipment, the construction and installation  
17 of new boilers, and a schedule of inspection and certificate  
18 fees for boilers required to be inspected by the act. Such  
19 rules and regulations may incorporate by reference any portion  
20 of (1) the Boiler and Pressure Vessel Code of the American  
21 Society of Mechanical Engineers, as amended, (2) the National Board  
22 Inspection Code, ~~for Boilers and Pressure Vessels,~~ as amended,  
23 (3) the American Society of Mechanical Engineers Code for Controls  
24 and Safety Devices for Automatically Fired Boilers, as amended,  
25 concerning controls and safety devices for automatically fired  
26 boilers, (4) the American Petroleum Institute Pressure Vessel  
27 Inspection Code API-510, and (5) the National Fire Protection

1 Association, series 85, code for controls and safety devices,  
2 including codes referenced in such code. A copy of all rules and  
3 regulations adopted and promulgated under the Boiler Inspection  
4 Act, including copies of all codes incorporated by reference, shall  
5 be kept on file in the office of the ~~commissioner~~ State Fire  
6 Marshal and shall be known as the Boiler Safety Code.

7           Sec. 23. Section 48-728, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           48-728 The state boiler inspector shall investigate and  
10 report to the ~~commissioner~~ State Fire Marshal the cause of any  
11 boiler explosion that may occur in the state, the loss of life,  
12 the injuries sustained, the estimated loss of property, if any, and  
13 such other data as may be of benefit in preventing other similar  
14 explosions.

15           Sec. 24. Section 48-729, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           48-729 The state boiler inspector shall keep in the  
18 office of the ~~commissioner~~ State Fire Marshal a complete and  
19 accurate record of the name of the owner or user of any boiler  
20 required to be inspected by the Boiler Inspection Act and a  
21 full description of the equipment including the type, dimensions,  
22 age, condition, amount of pressure allowed, and date when last  
23 inspected.

24           Sec. 25. Section 48-730, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           48-730 Before any boiler required to be inspected by the  
27 Boiler Inspection Act is installed, a ten days' written notice of

1 intention to install the boiler shall be given to the ~~commissioner~~  
2 State Fire Marshal, except that the ~~commissioner~~ State Fire Marshal  
3 may, upon application and good cause shown, waive the ten-day prior  
4 notice requirement. The notice shall designate the proposed place  
5 of installation, the type and capacity of the boiler, the use to be  
6 made of the boiler, the name of the company which manufactured the  
7 boiler, and whether the boiler is new or used.

8           Sec. 26. Section 48-731, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           48-731 (1) (a) The ~~Division of Safety and Labor Standards~~  
11 ~~of the Department of Labor~~ State Fire Marshal may issue a special  
12 inspector commission to an inspector in the employ of a company  
13 if the inspector has previously passed the examination prescribed  
14 by the National Board of Boiler and Pressure Vessel Inspectors and  
15 the company is an insurance company authorized to insure boilers in  
16 this state against loss from explosion.

17           (b) Each insurance company which has been issued a  
18 special inspector commission under this section shall submit to the  
19 state boiler inspector complete data of each boiler required to be  
20 inspected by the Boiler Inspection Act which is insured by such  
21 company on forms approved by the ~~commissioner~~ State Fire Marshal.

22           (c) Insurance companies shall notify the ~~division~~ State  
23 Fire Marshal of new, canceled, or suspended risks relating to  
24 insured boilers. Insurance companies shall notify the ~~division~~  
25 State Fire Marshal of all boilers which the company insures, or  
26 any boiler for which insurance has been canceled, not renewed, or  
27 suspended within thirty days after such action.



1           (d) Insurance companies shall notify the ~~division~~ State  
2 Fire Marshal of defective boilers. If a special inspector, upon the  
3 first inspection of new risk, finds that the boiler or any of the  
4 appurtenances are in such condition that the inspector's company  
5 refuses insurance, the company shall submit a report of the defects  
6 to the state boiler inspector.

7           (2) The inspection required by the act shall not be made  
8 if (a) an annual inspection is made under a city ordinance which  
9 meets the standards set forth in the act, (b) a certificate of  
10 inspection of the boiler is filed with the ~~commissioner~~ State Fire  
11 Marshal with a certificate fee, and (c) the inspector for the city  
12 making such inspection is required by such ordinance to either hold  
13 a commission from the National Board of Boiler and Pressure Vessel  
14 Inspectors commensurate with the type of inspections performed by  
15 the inspector for the city or acquire the commission within twelve  
16 months after appointment.

17           (3) The ~~commissioner~~ State Fire Marshal may, by rule  
18 and regulation, provide for the issuance of a special inspector  
19 commission to an inspector in the employ of a company using or  
20 operating an unfired pressure vessel subject to the act for the  
21 limited purpose of inspecting unfired pressure vessels used or  
22 operated by such company.

23           (4) All inspections made by a special inspector shall be  
24 performed in accordance with the act, and a complete report of such  
25 inspection shall be filed with the ~~division~~ State Fire Marshal in  
26 the time, manner, and form prescribed by the ~~commissioner~~ State  
27 Fire Marshal.

1           (5) The state boiler inspector may, at his or her  
2 discretion, inspect any boiler to which a special inspector  
3 commission applies.

4           (6) The ~~commissioner~~ State Fire Marshal may, for cause,  
5 suspend or revoke any special inspector commission.

6           Sec. 27. Section 48-733, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           48-733 The owner or user of a boiler required to be  
9 inspected under the Boiler Inspection Act or inspected by request  
10 of the boiler owner shall pay a fee for such inspection or  
11 inspections in accordance with the rules and regulations adopted  
12 and promulgated by the ~~commissioner~~ State Fire Marshal. Any boiler  
13 required to be inspected by the act may be inspected by the state  
14 boiler inspector if the owner or his or her agent makes written  
15 request to the state boiler inspector. Fees will be imposed as  
16 required for services in support of the act in accordance with  
17 rules and regulations adopted and promulgated by the ~~commissioner~~  
18 State Fire Marshal.

19           Sec. 28. Section 48-735.01, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           48-735.01 The Boiler Inspection Cash Fund is created.  
22 The ~~commissioner~~ State Fire Marshal shall use the fund for  
23 the administration of the boiler inspection program pursuant  
24 to the Boiler Inspection Act. The fund shall consist of money  
25 appropriated to it by the Legislature and fees collected in the  
26 administration of the act. Fees so collected shall be remitted to  
27 the State Treasurer with an itemized statement showing the source

1 of collection. The State Treasurer shall credit the fees to the  
2 fund, and the money in the fund shall not lapse into the General  
3 Fund. Any money in the Boiler Inspection Cash Fund available  
4 for investment shall be invested by the state investment officer  
5 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
6 State Funds Investment Act.

7 Sec. 29. Section 48-737, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 48-737 In addition to any and all other remedies, if  
10 any owner, user, or person in charge of any boiler required to  
11 be inspected by the Boiler Inspection Act continues to use the  
12 same after receiving a notice of defect as provided by the act,  
13 without first correcting the defects or making replacements, the  
14 ~~commissioner~~ State Fire Marshal may apply to the district court  
15 or any judge thereof by petition in equity, in an action brought  
16 in the name of the state, for a writ of injunction to restrain  
17 the use of the alleged defective boiler or if the continued  
18 operation of the boiler poses serious risk or harm to the general  
19 public, the state boiler inspector may take those actions required  
20 to immediately shut down and cause to be inoperable any boiler  
21 required to be inspected by the act.

22 Sec. 30. Section 48-738, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 48-738 The ~~commissioner~~ State Fire Marshal shall notify  
25 the owner or user of the equipment in writing of the time and  
26 place of hearing of the petition, as fixed by the court or  
27 judge, and serve the notice on the defendant at least five days

1 prior to the hearing in the same manner as original notices are  
2 served. The general provisions relating to civil practice and  
3 procedure, insofar as the same may be applicable, shall govern such  
4 proceedings except as otherwise provided in the Boiler Inspection  
5 Act. In the event the defendant does not appear or plead to such  
6 action, default shall be entered against the defendant. The action  
7 shall be tried in equity, and the court or judge shall make such  
8 order or decree as the evidence warrants.

9           Sec. 31. Section 48-741, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           48-741 The members of the board shall conduct an annual  
12 meeting in July of each year, or at such other time as the board  
13 determines. Beginning in 2007, the board and shall elect a  
14 chairperson from their members at the annual meeting to serve for  
15 a term of three years. Other meetings of the board shall be held  
16 when called with at least seven days' notice to all members by the  
17 chairperson of the board or pursuant to a call signed by four other  
18 members. Four members of the board shall constitute a quorum for  
19 the transaction of business.

20           Sec. 32. Section 48-743, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           48-743 The board shall hold hearings and advise the  
23 ~~commissioner~~ State Fire Marshal on rules and regulations for  
24 methods of testing equipment and construction and installation of  
25 new boilers required to be inspected by the Boiler Inspection Act  
26 and for inspection and certificate fees for such boilers.

27           Sec. 33. (1) All employees, budget requirements,

1 furniture, equipment, books, files, and records utilized by the  
2 Department of Labor for the administration of the Boiler Inspection  
3 Act shall be transferred and delivered to the State Fire Marshal on  
4 the operative date of this section. The transferred employees shall  
5 not lose any accrued benefits or status due to the transfer and  
6 shall receive the same benefits as other state employees, including  
7 participation in the State Employees Retirement Act.

8       (2) All contracts entered into by the Department of Labor  
9 pursuant to the Boiler Inspection Act shall be recognized by the  
10 State Fire Marshal, and the State Fire Marshal shall succeed to all  
11 rights and obligations under such contracts. Any funds from prior  
12 fiscal years available to satisfy obligations incurred under such  
13 contracts shall be transferred and appropriated to the State Fire  
14 Marshal for payment of such obligations.

15       (3) All rules, regulations, and orders of the Department  
16 of Labor adopted prior to the operative date of this section in  
17 connection with the Boiler Inspection Act shall continue to be  
18 effective until revised, amended, repealed, or nullified pursuant  
19 to law.

20       (4) No suit, action, or other proceeding, judicial or  
21 administrative, lawfully commenced prior to the operative date of  
22 this section or which could have been commenced prior to such  
23 date, by or against the Department of Labor pursuant to the Boiler  
24 Inspection Act shall abate by reason of the transfer of duties and  
25 functions from the Department of Labor to the State Fire Marshal.

26       (5) All licenses, certificates, registrations,  
27 commissions, permits, seals, or other forms of approval

1 issued by the Department of Labor prior to the operative date of  
2 this section pursuant to the Boiler Inspection Act shall remain  
3 valid as issued unless revoked or their effectiveness is otherwise  
4 terminated as provided by law. On and after the operative date  
5 of this section, all documents and records transferred, or copies  
6 of the same, may be authenticated or certified by the State Fire  
7 Marshal for all legal purposes.

8           Sec. 34. Section 48-1801, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           48-1801 Sections 48-1801 to 48-1820 and section 49 of  
11 this act shall be known and may be cited as the Nebraska Amusement  
12 Ride Act.

13           Sec. 35. Section 48-1802, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           48-1802 For purposes of the Nebraska Amusement Ride Act,  
16 unless the context otherwise requires:

17           (1) Amusement ride shall mean any mechanical device that  
18 carries or conveys passengers along, around, or over a fixed or  
19 restricted route or course or within a defined area for the purpose  
20 of giving its passengers amusement, pleasure, or excitement, but  
21 such term shall not include (a) any single-passenger coin-operated  
22 ride that is manually, mechanically, or electrically operated  
23 and customarily placed in a public location and that does not  
24 normally require the supervision or services of an operator or  
25 (b) nonmechanized playground equipment, including, but not limited  
26 to, swings, seesaws, stationary spring-mounted animal features,  
27 rider-propelled merry-go-rounds, climbers, slides, trampolines, and

1 physical fitness devices. Bungee jumping is specifically designated  
2 as an amusement ride for purposes of the act and shall mean the  
3 sport, activity, or other practice of jumping, diving, stepping  
4 out, dropping, or otherwise being released into the air while  
5 attached to a bungee cord, whereby the cord stretches, stops the  
6 fall, lengthens, and shortens allowing the person to bounce up and  
7 down, and is intended to finally bring the person to a stop at a  
8 point above a surface or the ground;

9 (2) Bungee cord shall mean a cord made of rubber, latex,  
10 or other elastic-type material, whether natural or synthetic;

11 ~~(3) Commissioner shall mean the Commissioner of Labor or~~  
12 ~~his or her designee;~~

13 ~~(4)~~ (3) Operator shall mean a person actually engaged in  
14 or directly controlling the operations of an amusement ride;

15 ~~(5)~~ (4) Owner shall mean a person who owns, leases,  
16 controls, or manages the operations of an amusement ride and may  
17 include the state or any political subdivision of the state;

18 ~~(6)~~ (5) Qualified inspector shall mean any person who  
19 is (a) found by the ~~commissioner~~ State Fire Marshal to possess  
20 the requisite training and experience to perform competently  
21 the inspections required by the Nebraska Amusement Ride Act and  
22 (b) certified by the ~~commissioner~~ State Fire Marshal to perform  
23 inspections of amusement rides; and

24 ~~(7)~~ (6) Reverse bungee jumping shall mean the sport,  
25 activity, or practice whereby a person is attached to a bungee  
26 cord, the bungee cord is stretched down so that such person is on  
27 a fixed catapult, launch, or release position, and such person is

1 catapulted or otherwise launched or released into the air from such  
2 fixed position, while attached to a bungee cord, whereby the cord  
3 stretches, stops the fall, lengthens, and shortens allowing the  
4 person to bounce up and down, and is intended to finally bring the  
5 person to a stop at a point above a surface or the ground.

6           Sec. 36. Section 48-1803, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           48-1803 The ~~commissioner~~ State Fire Marshal shall adopt  
9 and promulgate rules and regulations (1) for the safe installation,  
10 repair, maintenance, use, operation, and inspection of amusement  
11 rides as the ~~commissioner~~ State Fire Marshal may find necessary  
12 for the protection of the general public and (2) necessary to  
13 carry out the provisions of the Nebraska Amusement Ride Act. Such  
14 rules and regulations shall be of a reasonable nature, based upon  
15 generally accepted engineering standards, formulas, and practices,  
16 and, insofar as practicable and consistent with the Nebraska  
17 Amusement Ride Act, uniform with rules and regulations of other  
18 states. Whenever such standards are available in suitable form,  
19 they may be incorporated by reference by the ~~commissioner~~ State  
20 Fire Marshal. The ~~commissioner~~ State Fire Marshal shall administer  
21 and enforce the Nebraska Amusement Ride Act and all rules and  
22 regulations adopted and promulgated pursuant to such act. The  
23 ~~commissioner~~ State Fire Marshal shall coordinate all regulatory and  
24 investigative activities with the appropriate state agencies.

25           Sec. 37. Section 48-1804, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           48-1804 Except for purposes of testing and inspection,



1 no amusement ride shall be operated without a valid permit for  
2 the operation issued by the ~~commissioner~~ State Fire Marshal to the  
3 owner of such amusement ride. The owner of an amusement ride shall  
4 apply for a permit under section 48-1805 to the ~~commissioner~~ State  
5 Fire Marshal on an application furnished by the ~~commissioner~~ State  
6 Fire Marshal and shall include such information as the ~~commissioner~~  
7 State Fire Marshal may require. Every amusement ride shall be  
8 inspected before it is originally put into operation for public use  
9 and at least once every year after such ride is put into operation  
10 for public use.

11 Sec. 38. Section 48-1805, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 48-1805 (1) The ~~commissioner~~ State Fire Marshal shall  
14 issue a permit to operate an amusement ride to the owner of such  
15 amusement ride upon presentation by the owner of (a) an application  
16 for a permit, (b) a certificate of inspection by a qualified  
17 inspector, (c) proof of liability insurance as required in section  
18 48-1806, and (d) the permit fee. Such permit shall be valid through  
19 December 31 of the year in which the inspection is performed.

20 (2) The ~~commissioner~~ State Fire Marshal may waive the  
21 requirement of subdivision (1)(b) of this section if the owner of  
22 the amusement ride gives satisfactory proof to the ~~commissioner~~  
23 State Fire Marshal that such amusement ride has passed an  
24 inspection conducted or required by a federal agency, any other  
25 state, or a governmental subdivision of this or of any other state  
26 which has standards for the inspection of such an amusement ride at  
27 least as stringent as those adopted and promulgated pursuant to the

1 Nebraska Amusement Ride Act.

2           Sec. 39. Section 48-1806, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           48-1806 No amusement ride shall be operated unless at  
5 the time of operation the owner has an insurance policy in effect  
6 written by an insurance company authorized to do business in this  
7 state insuring the owner and operator against liability for injury  
8 to persons arising out of the operation of such amusement ride.  
9 Such insurance policy shall be in an amount not less than the  
10 minimum amount per occurrence as established by the ~~commissioner~~  
11 State Fire Marshal. Such minimum amount shall be established  
12 with due regard to the protection of the general public and  
13 the availability of insurance coverage, but such minimum amount  
14 shall not be greater than one million dollars per occurrence. The  
15 ~~commissioner~~ State fire Marshal may require a separate insurance  
16 policy from the owner of any equipment used in an amusement ride,  
17 subject to the minimums and limitations provided in this section.

18           Sec. 40. Section 48-1807, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           48-1807 The ~~commissioner~~ State Fire Marshal may inspect  
21 any amusement ride without notice at any time while such amusement  
22 ride is operating in this state. The ~~commissioner~~ State Fire  
23 Marshal may temporarily suspend a permit to operate an amusement  
24 ride if it has been determined after inspection to be hazardous or  
25 unsafe. An amusement ride shall not be operated while the permit  
26 for its operation is suspended. Operation of such an amusement  
27 ride shall not resume until the hazardous or unsafe condition

1 is corrected to the satisfaction of the ~~commissioner~~ State Fire  
2 Marshal.

3 Sec. 41. Section 48-1808, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 48-1808 The owner of an amusement ride shall send a  
6 copy of any accident report required by his or her insurer  
7 to the ~~commissioner~~ State fire Marshal. The ~~commissioner~~ State  
8 Fire Marshal may provide for the suspension of the permit of  
9 operation for any amusement ride the breakdown or malfunction of  
10 which directly caused serious injury or death of any person. The  
11 ~~commissioner~~ State Fire Marshal may also require an inspection of  
12 any amusement ride, whose operation has resulted in any serious  
13 injury or death, before operation of such amusement ride may be  
14 resumed.

15 Sec. 42. Section 48-1809, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 48-1809 The ~~commissioner~~ State Fire Marshal shall  
18 establish by rules and regulations a schedule of permit fees not  
19 to exceed fifty dollars for each amusement ride. Such permit fees  
20 shall be established with due regard for the costs of administering  
21 the Nebraska Amusement Ride Act.

22 Sec. 43. Section 48-1811, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 48-1811 The ~~commissioner~~ State fire Marshal may certify  
25 such qualified inspectors as may be necessary to carry out the  
26 Nebraska Amusement Ride Act.

27 Sec. 44. Section 48-1812, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           48-1812 (1) The ~~commissioner~~ State Fire Marshal may  
3 establish by rules and regulations a schedule of reasonable  
4 inspections fees for each amusement ride. The cost of obtaining the  
5 certificate of inspection from a qualified inspector shall be borne  
6 by the owner of the amusement ride.

7           (2) A separate schedule of fees shall be established  
8 for the inspection of bungee jumping operations, including the  
9 inspection of cranes used for bungee jumping. The fees shall be  
10 established taking into consideration the cost of such inspections.

11           Sec. 45. Section 48-1813, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           48-1813 Each owner shall retain at all times up-to-date  
14 maintenance and inspection records for each amusement ride as  
15 prescribed by the ~~commissioner~~ State fire Marshal. The owner shall  
16 make such records available to the ~~commissioner~~ State Fire Marshal  
17 on request.

18           Sec. 46. Section 48-1814, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           48-1814 The ~~commissioner~~ State Fire Marshal may require  
21 the owner of an amusement ride to provide the ~~commissioner~~ State  
22 Fire Marshal with a tentative schedule of events at which the  
23 amusement ride will be operated within this state. The ~~commissioner~~  
24 State fire Marshal shall establish timetables and procedures for  
25 providing and updating such schedules.

26           Sec. 47. Section 48-1817, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           48-1817 The Attorney General, acting on behalf of the  
2 ~~commissioner~~ State Fire Marshal, or the county attorney in a county  
3 in which an amusement ride is located or operated may apply to  
4 the district court, pursuant to the rules of civil procedure, for  
5 an order enjoining operation of any amusement ride operated in  
6 violation of the Nebraska Amusement Ride Act.

7           Sec. 48. Section 48-1819, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           48-1819 The governing board of any city, county, or  
10 village may establish and enforce safety standards for amusement  
11 rides in addition to, but not in conflict with, the standards  
12 established by the ~~commissioner~~ State Fire Marshal pursuant to the  
13 Nebraska Amusement Ride Act.

14           Sec. 49. (1) All employees, budget requirements,  
15 furniture, equipment, books, files, and records utilized by  
16 the Department of Labor for the administration of the Nebraska  
17 Amusement Ride Act shall be transferred and delivered to the  
18 State Fire Marshal on the operative date of this section. The  
19 transferred employees shall not lose any accrued benefits or status  
20 due to the transfer and shall receive the same benefits as other  
21 state employees, including participation in the State Employees  
22 Retirement Act.

23           (2) All contracts entered into by the Department of Labor  
24 pursuant to the Nebraska Amusement Ride Act shall be recognized by  
25 the State Fire Marshal, and the State Fire Marshal shall succeed  
26 to all rights and obligations under such contracts. Any funds from  
27 prior fiscal years available to satisfy obligations incurred under

1 such contracts shall be transferred and appropriated to the State  
2 Fire Marshal for payment of such obligations.

3 (3) All rules, regulations, and orders of the Department  
4 of Labor adopted prior to the operative date of this section in  
5 connection with the Nebraska Amusement Ride Act shall continue  
6 to be effective until revised, amended, repealed, or nullified  
7 pursuant to law.

8 (4) No suit, action, or other proceeding, judicial or  
9 administrative, lawfully commenced prior to the operative date of  
10 this section or which could have been commenced prior to such date,  
11 by or against the Department of Labor pursuant to the Nebraska  
12 Amusement Ride Act shall abate by reason of the transfer of duties  
13 and functions from the Department of Labor to the State Fire  
14 Marshal.

15 (5) All licenses, certificates, registrations, permits,  
16 seals, or other forms of approval issued by the Department of  
17 Labor prior to the operative date of this section pursuant to the  
18 Nebraska Amusement Ride Act shall remain valid as issued unless  
19 revoked or their effectiveness is otherwise terminated as provided  
20 by law. On and after the operative date of this section, all  
21 documents and records transferred, or copies of the same, may be  
22 authenticated or certified by the State Fire Marshal for all legal  
23 purposes.

24 Sec. 50. Section 81-401, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 81-401 The Governor, through the agency of the Department  
27 of Labor created by section 81-101, shall have power:

1                   (1) To foster, promote, and develop the welfare of wage  
2 earners;

3                   (2) To improve working conditions;

4                   (3) To advance opportunities for profitable employment;

5                   (4) To collect, collate, assort, systematize, and  
6 report statistical details relating to all departments of labor,  
7 especially in its relation to commercial, industrial, social,  
8 economic, and educational conditions and to the permanent  
9 prosperity of the manufacturing and productive industries;

10                  (5) To acquire and distribute useful information on  
11 subjects connected with labor in the most general and comprehensive  
12 sense of the word;

13                  (6) To acquire and distribute useful information  
14 concerning the means of promoting the material, social,  
15 intellectual, and moral prosperity of laboring men and women;

16                  (7) To acquire and distribute information as to the  
17 conditions of employment and such other facts as may be deemed of  
18 value to the industrial interests of the state;

19                  (8) To acquire and distribute information in relation  
20 to the prevention of accidents, occupational diseases, and other  
21 related subjects;

22                  (9) To acquire and distribute useful information  
23 regarding the role of the part-time labor force and the manner in  
24 which such labor force affects the economy and citizens of the  
25 state; and

26                  (10) To administer and enforce all of the provisions  
27 of ~~the Boiler Inspection Act,~~ the Employment Security Law, the

1 Farm Labor Contractors Act, ~~the Nebraska Amusement Ride Act,~~ the  
2 Nebraska Workforce Investment Act, and the Wage and Hour Act, ~~and~~  
3 Chapter 48, articles 2, 3, 4~~7~~ and 5, and sections 48-401 to 48-446,  
4 and for that purpose there is imposed upon the Commissioner of  
5 Labor the duty of executing all of the provisions of such acts,  
6 law, ~~and~~ articles, and sections.

7 Sec. 51. Section 81-505, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 81-505 The duties of the first assistant and the deputies  
10 shall be to operate under the direction of and to assist the  
11 State Fire Marshal in the execution of sections 81-501.01 to  
12 81-531 and 81-5,151 to 81-5,157, the Boiler Inspection Act, the  
13 Elevator Safety Act, the Nebraska Amusement Ride Act, the Nebraska  
14 Natural Gas Pipeline Safety Act of 1969, the Petroleum Products  
15 and Hazardous Substances Storage and Handling Act, and any other  
16 statutory duties imposed upon the State Fire Marshal. In the event  
17 of a vacancy in the office of State Fire Marshal and until a  
18 successor is appointed or during the absence or disability of that  
19 officer, the first assistant fire marshal, with the assent and  
20 approval of the Governor, shall assume the duties of that office.

21 Sec. 52. Sections 1 and 53 of this act become operative  
22 three calendar months after adjournment of this legislative  
23 session. The other sections of this act become operative on July  
24 1, 2006.

25 Sec. 54. Original sections 48-418, 48-418.02, 48-418.03,  
26 48-418.04, 48-418.05, 48-418.06, 48-418.07, 48-418.09, 48-418.10,  
27 48-418.11, 48-418.12, 48-418.14, 48-719, 48-720, 48-721, 48-722,



1 48-723, 48-724, 48-727, 48-728, 48-729, 48-730, 48-731, 48-733,  
2 48-735.01, 48-737, 48-738, 48-741, 48-743, 48-1801, 48-1802,  
3 48-1803, 48-1804, 48-1805, 48-1806, 48-1807, 48-1808, 48-1809,  
4 48-1811, 48-1812, 48-1813, 48-1814, 48-1817, 48-1819, 81-401, and  
5 81-505, Reissue Revised Statutes of Nebraska, and section 48-726,  
6 Revised Statutes Supplement, 2005, are repealed.

7           Sec. 55. Since an emergency exists, this act takes effect  
8 when passed and approved according to law.

9           2. Renumber the remaining sections accordingly.